

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11207 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

LALITABEN RAMUBHAI PATEL

Versus

COMPETENT AUTHORITY AND ADDITIONAL COLLECTOR ULC

Appearance:

MS KJ BRAHMBHATT for Petitioners
MR UMESH TRIVEDI, 1d.AGP for Respondent Competent authority

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 10/03/99

ORAL JUDGEMENT

The petitioners claim to be the owners of land bearing Survey No.101/3 situated at village Singanpore (Surat) and various other lands. The petitioners had moved an application under Section 21 of the Urban Land Ceiling Act, declaring their intention to construct dwelling units for weaker sections of the society on the

land in question and seeking exemption in respect of the said land in order to construct the dwelling unit for the members of the weaker sections of the society. This application under Section 21(1) of the ULC Act was rejected on 20th August 1987. Against this order, the petitioners preferred an appeal, being Appeal No.3 of 1989 before the Urban Land Tribunal, the Secretary, Revenue Department, under Section 33 of the ULC Act. The Urban Land Tribunal allowed the appeal setting aside the order by which the application under Section 21(1) was rejected and the matter was remanded back to the Competent authority for deciding this application under Section 21(1) of the ULC Act. The petitioners also submitted an application on 27th March 1990 along with the copy of the order dated 5.6.1989 and requested that the matter may be decided again as remanded. The petitioners were then called upon by the respondent to supply certain details. The petitioners' case is that the information sought for was supplied on 3.9.1990. The petitioners say that this application under Section 21(1) as remanded to the Competent authority is not being considered and decided although a representation has been made even on 22nd June 1998 and despite the order dated 5.6.1989 passed by the Urban Land Tribunal. No return has been riled.

2. Heard learned Counsel for the petitioners and learned Asstt. Govt. Pleader for the respondent. Rule. Service of Rule is waived by Mr.Umesh Trivedi, learned Asstt. Govt. Pleader and in the facts and circumstances of this case, the matter is taken up for final hearing right today.

3. The factual assertion that the order had been passed by the Urban Land Tribunal on 5.6.1989 remanding the matter for the decision of the petitioners' application under Section 21(1) afresh is not denied. It is also not denied that the said application is pending and the same has not been decided as yet. In view of the factual position that the matter under Section 21(1) of the ULC Act is pending consideration since long and even after the representation the Urban Land Tribunal's order dated 5.6.1989, the same is not being decided and by this time a period of more than nine years is already over after the Urban Land Tribunal's previous order dated 5.6.1989, the respondent Competent authority is directed to decide the petitioners' application under Section 21(1) at the earliest possible opportunity, but in no case later than 30th April 1999. It will be the duty of the learned Counsel for the petitioners to serve the certified copy of this order upon the concerned Competent

authority within a period of ten days from today and direct service is permitted for that purpose.

3. This Special Civil Application succeeds as above. The same is allowed and the Rule is made absolute in the terms as aforesaid. No order as to costs.

sreeram.